1921.

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Ref. No. 1625-21-V. 2.

South Kanara Collector's Office,
Mangalore, 17th March 1921.

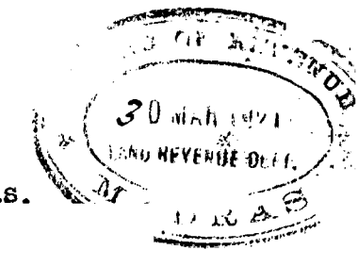
A1504

From

R. H. Ellis, Esquire, I.C.S.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue. Madras.



Levy of Railway Cess for 1920-21 or Fasli 1330 under th New Local Boards Act - Instructions solicited.

In G.O. No. 2278 L., dated 23rd December 1913, Railway cess at three pies in the rupee was ordered to be levied in this district under section 58 of the Madras Local Boards Act, 1884. The cess was being collected for the fasli year ending 30th June along with land revenue. Now that Railway cess has been abolished under the new Local Boards Act which comes into force from 1st April 1921, it is a question whether the cess can be levied for any period after 31st March 1921 i.e. for the last 3 months of the current fasli year. Though the cess was being collected for the fasli year in three kists i.e. March, April and May to synchronize with the collection of land revenue, it may be regarded as due for the official year, as taxes and fees under the Local Boards Act are to be levied for the official year and not for the fasli year. I am, therefore, of the opinion that Railway cess for the current official year may be collected along with land revenue even after the new Act comes into force. As, however, the matter is not free from doubt, I solicit instructions as to whether the Railway cess for the whole year 1920-21 may be collected along with land revenue.

For Collector.
21-3

Page No.

Cess — Railway cess (S. Kanara) — Levy for 1, ..-21 under the New Local Boards Act — Instructions issued.

Read A 1504/21 — Q

Res^n (Mis). 158/19..1..2.

The collector is informed that only the instalments normally payable upto the 31st March 1921 can be collected

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Please refer to the Madras Code of Criminal Procedure 1898 on this point

Cess — Railway cess (S. Kanara) — Levy for 1920-21 or Fasli 1330 under the New Local Boards Act.

A. 1504/21

M1

To Secretary

The cess is due for the official year and can therefore be collected even after the new Local Boards Act comes into force. The Collector's view appears to be correct. It is submitted that he may be informed that the Railway cess for the whole year 1920-21 may be collected along with land revenue.

Asst 8/4/21 It has to be considered whether the Collector's view that the tax is due for the official year is correct. There is nothing in the Act to show that Land Cess is due for the official year. It is true that the Local Boards maintain their accounts for the financial year and in the New Local Boards Act "year" is defined as referring to the financial year. But Land Cess is not stated to be due for a "year" as so defined.

Section 3 item (24) at p. 10 of the Fort St. George Gazette put up

Under sec 60 of the Old Act and Sec 77 of the New Act the Dt Board has to Notify the date from which the tax is to be raised and the tax is leviable from that date (Not from the Commencement of any financial year). Under Sec 72 every landholder Old Act pays land cess to the Collector on or before such dates and in such instalments as the Govt under the general orders of the Govt of Pres may by Notification declare. Under Sec 164 the Collr has to send annually to the Govt such returns as the Governor in Council may prescribe an estimate of the probable gross receipts & charges of Collection & under Sec 149 the Collr should draw the Collections from time to time to the Credit of the Dt Board Each is done at present is that the Collr renders an account for one official year & Credit slips to the Bank is given to the Dt Ac every month out of the gross Collections of that month & the demand, Income, for the fasli year and that is a matter that does not Concern the Local Board. The important points to be noted is that the Cess is not Collected separately. Our village accounts show lump Collections of L.R. & Cesses and the total is apportioned between L.R. & Cess by an Office Calculation before the Treasury account is prepared. So it is impossible to trace land Cess as

p.24 of the Gazette put up.

× Sec. 88 under the New Act p.26 of the Gazette put up.

3rd Act

× 6th Act

8,000—29-9-13.

due for the official yr & land Revenue as due for the fasli. Further in this particular case. if the Cess is to be taken as due for the Offl yr ⁊ 20-21 that period must include April, May & June of the last fasli (1329). But the Cess has already been levied for the Whole fasli year (July 1919 — June 1920 Sec 2 sch IV of the New Act seems to recognize the fact that the Cess is Collected for the fasli year

p. 57 of the Gazette put up

It may be taken that the Cess is due for the fasli year (1st July 20 — June 21)

If the Railway Cess ceases to be leviable from 1st April, the following points will have to be Considered

(1) Whether the fact that the District in some districts falls due Wholly before April or the District in other districts falls partly before & partly in or after April affect the question

(2) If so, in what manner

There are two precedents.

(i) The Zyotdari Village Service Cess was abolished with effect from 1st April 1906;

(ii) the proprietary V.S. Cess was abolished with effect from 1st April 1912

In respect of No (i) the Board ordered (BO 12) of 3rd dated 4.4.1906) that the Cess falling due previous to April 1st should be collected

In respect of No (ii) the Board said in its proc No 1546 of 25.4.12 that the Cess falling due after the 31st March 1912 should not be collected. The Bd's proc was recorded by Government in the Madras Gazette which formed the basis for the issue of the above order. 13/11 this of the Cess had fallen due before the end of March - that was ordered to be collected this it exceeded the proportion 3/4 ths (9 months out of 12 i.e July 1911 to March 1912).

This order was followed in Ramnad some years later. There, the U.S. Cess transfer was brought into effect from 1st October 1911. The Cess was abolished from 1.4.1912.

The Govt ordered Madras said that Cess was leviable for 1/2 year. Under the decisions of 1906 & 1912 however, only the instalments that were actually payable according to the Kistbandi were actually levied. The sum so levied was smaller than 1/2 the demand of the fasli year. The action taken was responsive to the notice of Govt in the report on the Zamindar's appeal & was confirmed. So, the course adopted so far has been to follow the Kistbandi dates whether the sum payable on kistbandi date

Map (N)

Map (T)

p.4 of (T)

p.2 of (T)

para 3 at p.9 of P.P. 606 his 1-5-18 (P)

p.3 of P.P. 1683 Rt of 24.5.16 (H)

p.7 of (H)

exceeded or fell short of the proportion due for the year calculated with reference to the number of months in the year during which the Act was in force. It has to be considered whether this decision may be followed in the pr-
-se

B.P. 650 His. (Q) 16-5-19

in the Revenue Case. Steps to collect
the Cess are due for the period anterior
to the date of abolition in the Act.
Are decrees taken now after the High Court
appeal was disposed of
It is submitted that the demand i.e.
the amount now in the Treasury should
be paid to the Board. The actual
payment may be made after
the abolition. On submitting to the
Board the decree of the High Ct. appeal
in the Revenue Case Mr Ramesam

para 7 at p. 9 of (Q)

said that the word levied does not
necessarily mean 'collected' - Nor even
'imposed' - Para 7 of his letter is
for perusal - As already said, in

para 3 at p. 9 of B.P. 66 His (P) 2-5-16

Mr Ramesam's opinion, 1/2 the Cess
i.e. that due for the 6 months in the yr
October 11 — March 12) was payable
and could be collected any time later

In this View, 3/4 ths of the Railway Cess of the Last year will be taken as due.
In South Canara, 1/3 was payable before the end of March & 2/3 later.
According to the Boards decision of 1906 & 1912 only 1/3 of this have to be Collected and 2/3 rds remitted. If the other View is adopted, the same instalments may remain, but 3/4 ths of the amt due in each Dist may be Collected.
The Matter may perhaps be referred to Govt for orders. They will, if necessary, take legal opinion.

Secy
15.4.21

I think what we shall normally payable up to 31st March can be collected.
In the Ramnad case the decision was the same: The Cess was abolished as from 1.4.1912 and the said that it was payable from 1.X.11 to 31.3.1912
In the other cases the same principle was adopted except that the normal instalments were not considered but a proportion 13/16 was collected: however from time of which the respective byes 1.4.21 was effected

16/4

To Secretary

Draft submitted WS 16/4